
UTAH LABOR COMMISSION

KIM D. LUND,

Petitioner,

vs.

**TRIPLE L TRANSPORT, LIBERTY
MUTUAL FIRE INSURANCE CO., and
WORKERS COMPENSATION FUND,**

Respondents.

**ORDER DISMISSING
INTERLOCUTORY
MOTION FOR REVIEW**

Case No. 08-1249

Liberty Mutual Insurance Co. (referred to as “Liberty” hereafter) asks the Utah Labor Commission to review Administrative Law Judge Hann's denial of Liberty’s motion for dismissal as a respondent to Kim D. Lund's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to § 63G-4-301 of the Utah Administrative Procedures Act and § 34A-2-801(3) of the Utah Workers’ Compensation Act.

BACKGROUND AND ISSUE PRESENTED

Mr. Lund seeks workers’ compensation benefits for injuries allegedly caused by his work for Triple L Transport. Although Mr. Lund attributes his injuries to a work accident in August 2002, when Triple L Transport was insured by Workers Compensation Fund (“WCF”), WCF argues that Mr. Lund’s injuries are due at least in part to a work accident during December 2007, at which time Liberty was Triple L Transport’s insurance carrier.

Liberty asked Judge Hann to dismiss it as a respondent to Mr. Lund’s claim; Judge Hann denied that request. Liberty now asks the Commission to review Judge Hann’s denial of Liberty’s motion.

DISCUSSION

Judge Hann’s denial of Liberty’s motion for dismissal is neither a determination on the merits of Mr. Lund’s claim for workers’ compensation benefits, nor a judgment on Liberty’s liability for such benefits. Instead, Judge Hann has concluded only that Liberty **may** be liable in this matter. For that reason, Judge Hann has required Liberty to participate in the adjudication of Mr. Lund’s claim. Judge Hann’s judgment on this point is adequately supported by the pleadings.

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As an additional point, the Commission notes that interlocutory review of an ALJ's preliminary determinations can have the effect of diminishing the ALJs' ability to manage hearings, and delay resolution of claims. Furthermore, the issues raised in interlocutory motions for review may be satisfactorily resolved or rendered moot by subsequent events. In such cases, consideration of an interlocutory motion for review serves no useful purpose, but diverts resources from other cases that are ready for Commission review. In light of these considerations, the Commission will engage in interlocutory review only if the advantages from deciding the issues presented will clearly outweigh "the interruption of the hearing process and the other costs of piecemeal review."¹ As a practical matter, interlocutory review is appropriate only in unusual cases.

For the foregoing reasons, the Commission declines to consider further Liberty Mutual's interlocutory motion for review.

ORDER

The Commission dismisses Liberty Mutual's interlocutory motion for review and remands this matter to Judge Hann for such action as is necessary to complete the adjudication of this matter. It is so ordered.

Dated this 24th day of February, 2009.

Sherrie Hayashi
Utah Labor Commissioner

¹ Charles H. Koch, Jr., Administrative Law and Practice (1985), §6.75